

No. 9(1)82-6Lab/4129.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of Haryana State Electricity Board, Chandigarh:—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING
OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 40 of 1981

between

SHRI MANBHAR, WORKMAN AND THE RESPONDENT-MANAGEMENT
OF HARYANA STATE ELECTRICITY BOARD, CHANDIGARH.

Shri Roshan Lal, for the workman.

Shri N.P. Singh for the respondent-management.

AWARD

This reference No. 40 of 1981 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/165-80/1258, dated 8th January, 1981, under section 10(i) (c) of the Industrial Disputes Act, 1947, existing between Shri Manbhar, workman and the respondent-management of M/s Haryana State Electricity Board, Chandigarh. The term of the reference was:—

Whether the termination of services of Shri Manbhar was justified and in order ?
If not, to what relief is he entitled ?

Notices were issued to the parties, on receiving this reference. The parties appeared and filed their pleadings. The case of the workman according to the claim statement is that he was working as T. Mate in the respondent factory since long. There was a advertisement. The claimant applied for the post as he was qualified and received the interview letter and appeared before the Selection Board. The claimant was selected for the post and received the appointment letter. After few days he received another letter dated 29th May, 1980 for the withdrawal of appointment letter and termination of service of claimant. The act of the respondent is quite illegal, arbitrary, unjustified and against the principles of the natural justice. Thirteen persons were given these appointment letters out of whom seven have already been reinstated and the reinstated persons are junior to the workman. The act of the respondent is against the law and the workman is entitled for the reinstatement with full back wages and continuity of service.

The case of the respondent is that the claimant was appointed as Boiler Attendant in the scale of Rs 130—200 and appointment letter was given. The services of the workman were terminated as per condition II of the appointment letter. The service of the workman was liable to be terminated by giving one month's notice by the respondent board and which was given on 29th May, 1980 and services were terminated on 28th June, 1980 and the workman given the post of T. Mate from where he was selected as Boiler Attendant. Thus the services of the workman terminated strictly accordance with the provision of the appointment letter and there is nothing illegal in it. The reference may be rejected.

On the pleadings of the parties, one issue as per reference was framed:—

1. Whether the termination of services of the workman was proper, justified and in order ? If not, to what relief is he entitled ?

My findings on issue is as under:—

Issue No. 2:—

The representative of the respondent argued that after the selection of the workman the union of the H.S.E.B. raised the demand including the appointment of these workmen which is Ex.M-2. The demand raised in respect of the appointment of these workmen was at clause No. 8 and according to this demand the respondent agreed the demand of the union and gave the notice to the workmen for termination of service. There is nothing wrong in the order Ex. M-3 as stated by MW-1 Shri N. R. Nagia who has stated in his statement that the workman was working as T.Mate in the respondent factory and was selected for the post. But on account of union demand the termination was made. So the termination was made in accordance with the settlement Ex. M-2 with the union of the employees of H.S.E.B. The union has desired that the selection should be on the basis of the seniority-cum-merit and not only on merit, and the selection was on merit but under the pressure of the union they had withdrawn the appointment order, and there is justification in the termination order.

The representative of the workman argued that the workman was working with the respondent-management as T. Mate from 17th November, 1974 and according to the newspaper advertisement, he applied for the post of Boiler Attendant on which he received the interview letter Ex. W-2 and was selected for the post of Boiler Attendant and received the appointment letter Ex. M-1. He was selected by the Board as he has all qualifications for the post. He argued that as stated by the respondent they made the order of termination on the demand of the employees union is false and wrong. The respondent should not have accepted the wrong demand of the employees union. It was the open advertisement for all persons why the senior person to whom this employees union, workman want to induce on the post have not applied for the post, and came before the selection board. When the workman applied for the post,—vide notice Ex.W-1 which was for all head of the department the selection board selected the workman as Boiler Attendant and gave the appointment letter. They have no right to withdraw the appointment made by the selection board. It was not a promotion, it was a fresh appointment as stated by the workman and fresh appointment was not a reversion in the case of termination. It is clearly termination without any valid reason. He further argued that the respondent had re-instated seven persons which were given termination after these demand notices. So it is clear case that the termination order was illegal and wrong and so they are entitled for the reinstatement with full back wages and continuity of service.

After hearing the arguments of both the sides and going through the file, I am of the view that the workman was duly selected by the selection board cannot be terminated without any valid reason and after a few days. The selection once made by the selection board is final without any legal orders. So the termination of the workman is not justified and according to law. So the workman is entitled for the reinstatement with full back wages and continuity of service. No orders as to costs. This be read in answer to this reference. Dated the 9th April, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 835, dated 19th April, 1982

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.